

## PUBLIC BROADCASTING FINANCING ACT OF 1975

DECEMBER 11, 1975.—Ordered to be printed

Mr. STAGGERS, from the committee of conference, submitted  
the following

### CONFERENCE REPORT

[To accompany H.R. 6461]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6461) to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

*That this Act may be cited as the "Public Broadcasting Financing Act of 1975".*

*Sec. 2. Subsection 396(k) of the Communications Act of 1934 is amended by inserting after paragraph (2), the following paragraphs:*

*"(3) There is hereby established in the Treasury a fund which shall be known as the 'Public Broadcasting Fund' administered by the Secretary of the Treasury. There are authorized to be appropriated to such fund for each of the fiscal years during the period beginning July 1, 1975, and ending September 30, 1980, an amount equal to 40 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, and for the period July 1, 1976, through September 30, 1976, an amount equal to 10 per centum of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year ending June 30, 1975; except that the amount so appropriated shall not exceed \$88,000,000 for the*

fiscal year ending June 30, 1976; \$22,000,000 for the period July 1, 1976, through September 30, 1976; \$103,000,000 for the fiscal year ending September 30, 1977; \$121,000,000 for the fiscal year ending September 30, 1978; \$140,000,000 for the fiscal year ending September 30, 1979; and \$160,000,000 for the fiscal year ending September 30, 1980.

“(4) The funds authorized by this subsection shall be used solely for the expenses of the Corporation. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years indicated in paragraph (3) of this subsection for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall disburse to the Corporation, from such funds as may be appropriated to the Public Broadcasting Fund, the amount authorized for each of the fiscal years and for the period July 1, 1976, through September 30, 1976, pursuant to the provisions of this subsection.

“(5) The Corporation shall reserve for distribution among the licensees and permittees of noncommercial educational broadcast stations that are on-the-air an amount equal to not less than 40 per centum of the funds disbursed to the Corporation from the Public Broadcasting Fund during the period July 1, 1975, through September 30, 1976, and in each fiscal year in which the amount disbursed is \$88,000,000 or more, but less than \$121,000,000; not less than 45 per centum in each fiscal year in which the amount disbursed is \$121,000,000 or more, but less than \$160,000,000; and not less than 50 per centum in each fiscal year in which the amount disbursed is \$160,000,000.

“(6) The Corporation shall, after consultation with licensees and permittees of noncommercial educational broadcast stations that are on-the-air, establish, and review annually, criteria and conditions regarding the distribution of funds reserved pursuant to paragraph (5) of this subsection, as set forth below:

“(A) The total amount of funds shall be divided into two portions, one to be distributed among radio stations, and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a noncommercial educational television station that is on-the-air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in noncommercial educational broadcasting, and on the basis of a formula designed to—

“(i) provide for the financial need and requirements of stations in relation to the communities and audiences such stations undertake to serve;

“(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

“(iii) assure that each eligible licensee and permittee of a non-commercial educational radio station receives a basic grant.

*“(B) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, one-half of a licensee’s or permittee’s total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.*

*“(7) Funds distributed pursuant to this subsection may be used at the discretion of stations for purposes related to the provision of educational television and radio programing, including but not limited to the following: producing, acquiring, broadcasting, or otherwise disseminating educational television or radio programs; procuring national or regional program distribution services that make educational television or radio programs available for broadcast or other dissemination at times chosen by stations; acquiring, replacing, and maintaining facilities, and real property used with facilities, for the production, broadcast, or other dissemination of educational television and radio programs; developing and using nonbroadcast communications technologies for educational television or radio programing purposes.”.*

*SEC. 3. Subsection 396(g)(2)(H) of the Communications Act of 1934 is amended by deleting the period after “broadcasting” and inserting the following: “and the use of nonbroadcast communications technologies for the dissemination of educational television or radio programs.”.*

*SEC. 4. Subsection 396(i) of the Communications Act of 1934 is amended by adding at the end thereof the following sentence: “The officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection 396(l), or any other matter which any such committee may determine.”.*

*SEC. 5. Section 397 of the Communications Act of 1934 is amended by inserting, after paragraph (9), the following paragraphs:*

*“(10) The term ‘non-Federal financial support’ means the total value of cash and the fair market value of property and services (except for personal services of volunteers) received—*

*“(A) as gifts, grants, bequests, donations, or other contributions for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of educational television or radio programs, and related activities, from any source other than (i) the United States or any agency or establishment thereof, or (ii) any public broadcasting entity; or*

*“(B) as gifts, grants, donations, contributions, or payments from any State, any agency or political subdivision of a State, or any educational institution, for the construction or operation of noncommercial educational broadcast stations or for the production, acquisition, distribution, or dissemination of educational television or radio programs, or payments in exchange for services or materials respecting the provision of educational or instructional television or radio programs.*

"(11) The term 'public broadcasting entity' means the Corporation, any licensee or permittee of a noncommercial educational broadcast station, or any nonprofit institution engaged primarily in the production, acquisition, distribution, or dissemination of educational television or radio programs."

And the Senate agree to the same.

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 JOHN M. MURPHY,  
 CHARLES J. CARNEY,  
 GOODLOE E. BYRON,  
 LOUIS FREY, JR.,  
 EDWARD R. MADIGAN,

*Managers on the Part of the House.*

WARREN G. MAGNUSON,  
 JOHN O. PASTORE,  
 VANCE HARTKE,  
 HOWARD BAKER,  
 J. GLENN BEALL,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6461) to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The difference between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The House bill and the Senate amendment thereto differed from one another in the following three significant substantive respects: (1) matching requirements for Federal funding, (2) a provision relating to instructional programming, and (3) a provision affecting the status of the Corporation for Public Broadcasting (CPB) under the Civil Rights Act of 1964. There follows a discussion of these differences and the action taken by the committee of conference with respect to each of them.

### MATCHING REQUIREMENTS FOR FEDERAL FUNDING

Both the House bill and the Senate amendment thereto provided that authorizations of appropriations for each fiscal year in the period from July 1, 1975, through September 30, 1980, would be based on the total amount of non-Federal financial support received by all public broadcasting entities during the fiscal year second preceding each such fiscal year. Of course, both versions and the conference substitute would impose a ceiling on the maximum amount authorized to be appropriated for each such fiscal year.

The Senate amendment provided that for any such fiscal year, \$1 would be authorized to be appropriated for every \$2.50 in non-Federal financial support received by all public broadcasting entities during the second preceding fiscal year.

The House bill contained the same \$1 to \$2.50 matching provisions for the first three fiscal years covered by the legislation (1976, 1977,

and 1978). For fiscal years 1979 and 1980, however, the House bill would have authorized \$1 to be appropriated for every \$3 in non-Federal financial support received by public broadcasting entities during fiscal years 1977 and 1978, respectively.

The Managers on the part of the Senate voiced serious concern about the impact of this provision on public broadcasters generally and smaller public broadcasting stations in particular. It was their fear that the higher House bill formula would make it difficult, if not impossible, for public broadcasting to achieve the maximum amount authorized for each of the last two fiscal years.

In adopting the matching provisions of the Senate version, the conferees from each House wish to make clear that it is their intention to closely monitor non-Federal financial support received by public broadcasting entities in the future for the purpose of determining if it would be feasible and in the public interest to increase the matching requirement to the ratio provided for in the House bill.

#### INSTRUCTIONAL PROGRAMMING

Proposed section 396(k) (4) of the House bill would have required that a significant portion of the funds disbursed to CPB and a significant portion of the funds distributed by CPB to noncommercial educational radio and television broadcast stations pursuant to the proposed section 396(k) (5) of the Act be utilized for the development and dissemination of instructional programming.

The Senate amendment had no comparable provisions. The conference substitute contains no provisions relating to instructional programming.

The omission of the provisions in the House bill relating to instructional programming does not reflect a lack of commitment on the part of the Managers from either House to the principle that instructional programming must be an important part of public broadcasting. Educational instruction was the primary purpose of the original non-commercial educational broadcast stations and the Midwest Program on Airborne Television Instruction (MPATI) experiment. It also was a basic thrust of the Carnegie Report on which the Public Broadcasting Act of 1967 was based. Indeed, it is the sense of the Managers from both Houses that this policy is already embodied in the Act as section 396(a) (1). That provision was enacted as a part of the Public Broadcasting Act of 1967. It provides as follows:

Sec. 396. (a) The Congress hereby finds and declares—

(1) that it is in the public interest to encourage the growth and development of noncommercial educational radio and television broadcasting, *including the use of such media for instructional purposes*; (italic supplied)

It is the expectation of the conferees that CPB will, in keeping with this clear policy, ensure that a significant portion of the funds it distributes for programming purposes will be used for the development of instructional programming. There should be no drift by CPB away from this mandate of the Congress.

## CIVIL RIGHTS ACT LANGUAGE

The Civil Rights Act language contained in the House bill was as follows:

SEC. 3. Subsection 396(b) of the Communications Act of 1934 is amended by adding at the end thereof the following: "The Corporation shall be subject to the provisions of titles VI, VII, and IX of the Civil Rights Act of 1964, in the same manner and to the same extent as Federal departments and agencies".

The conferees on the part of the Senate strongly objected to the inclusion of this language. Their objections were based on a technical problem in the amendment and on a concern that the House language would place the Corporation for Public Broadcasting in the posture of a Federal department or agency responsible for the promulgation and enforcement of civil rights regulations. The Senate conferees stated that placing CPB in such a posture would be in clear conflict with the intent of the Congress to establish CPB as a private corporation as set forth in section 396(b) of the Act.

Moreover, the Senate conferees were of the view that existing Federal agencies mandated to enforce the civil rights laws should be required to implement those laws with regard to public broadcasting, rather than placing this responsibility on the CPB.

The conferees on the part of the House also expressed concern about the technical problem in the language and about the effect of the language, since it had been raised for the first time during debate in the House with no opportunity for considering it during hearings on the legislation.

The House conferees committed themselves to hold hearings as soon as practicable on the questions raised by this language in the House version and to explore fully the underlying problems of discrimination against minorities and women in public broadcasting. The Senate conferees made a commitment to hold similar oversight hearings.

It is the intention of the conferees that these hearings focus on (1) identifying and documenting precisely where problems of discrimination exist; (2) determining whether the appropriate Federal departments or agencies (including, but not limited to, the Federal Communications Commission; the Department of Health, Education and Welfare; the Justice Department; and the Equal Employment Opportunity Commission) are effectively carrying out their existing anti-discrimination enforcement responsibilities; (3) identifying the appropriate responsibilities of the various public broadcasting entities with respect to non-discrimination in employment opportunity and the provision of services; and (4) considering, if necessary, legislative initiatives to deal with any continuing problems.

The conferees stated their concern that, despite some improvement, discrimination in the employment practices of CPB, PBS, and the public television and radio stations appears to be continuing. They further agree that the Congress should press for an immediate end to such discrimination.

On the basis of this agreement and of the commitment to hearings, the conferees agreed not to include the House language in the conference substitute.

#### TESTIMONY OF CPB BEFORE CONGRESSIONAL COMMITTEES

Both versions of the legislation contained provisions clarifying the duty of officers and directors of CPB to be available to testify before appropriate Committees of the Congress. The Senate amendment provided that the officers and directors would be available to testify "annually". The House version contained no such limitation and left the determinations to the committees as to how often such testimony would be required.

The conference substitute is the same in this respect as the House bill.

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